

### **REMARKS/ARGUMENTS**

By this Amendment, claims 1, 6-8, 14-16, 33, and 57 have been amended to address issues raised by the Examiner. Claims 17-32, 38-55, and 61-67 have been withdrawn from consideration as being drawn to non-elected inventions. Favorable reconsideration of claims 1-16, 33-37, and 56-60 is respectfully requested.

Claim Rejections – 35 USC § 101. Claims 6 and 14 were rejected under Section 101. These claims have been amended according to the Examiner's suggestion to recite an *isolated* host cell. Applicants respectfully request withdrawal of the rejection.

Claim Rejections – 35 USC § 112, First Paragraph. Claims 33-37 and 57-60 were rejected under Section 112, first paragraph, for failing to be supported by an enabling disclosure. The Examiner argued that vaccine recited in claim 57 and the method of immunizing a mammal recited in claim 33 would require undue experimentation. Applicants respectfully disagree. While it might require several minimally-trained technicians some time to identify the most antigenic fragment of *spb1* and further determine the optimal dosage to elicit an immune response, it remains that such a process could be done with relative straightforward ease. Vaccines in fact are routinely made all the time with very little effort expended on optimizing the antigenicity. Typically, whole organisms are even used with no thought of optimization. The issue of undue experimentation is not to be confused with routine experimentation. Applicants agree that routine experimentation may be required to practice the subject matter of the rejected claims, but Applicants respectfully submit that the claimed invention may be readily practiced without undue experimentation. Withdrawal of the rejection is respectfully requested.

Claims 6-8 and 14-16 were rejected under Section 112, first paragraph. The Office Action, page 8, indicated that this rejection could be overcome by amending the claims to recite, for example, --An isolated host cell--. Claims 6 and 14 have been amended according to the Examiner's suggestion. One having ordinary skill in the art will appreciate that the relevant "host cell" disclosed in the specification is an isolated host cell. Withdrawal of the rejection is respectfully requested.

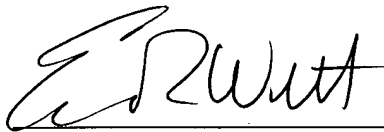
Claim Rejections – 35 USC § 112, Second Paragraph. Claims 1-16, 33-37, and 57-60 were rejected under Section 112, second paragraph, as being indefinite. Claims 1, 33, and 57

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have been amended according to the Examiner's suggestions. Applicants respectfully request withdrawal of the rejection and allowance of claims 1-16, 33-37, and 57-60.

Applicants respectfully request that a timely Notice of Allowance be issued in this case. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'E. R. Witt', written over a horizontal line.

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